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LETTER DATED 6 JULY 1999 FROM THE PERMANENT REPRESENTATIVE OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Following the Secretary-General's submission of his report (S/1999/726) in accordance with paragraph 16 of Security Council resolution 883 (1993) and paragraph 8 of Council resolution 1192 (1998), the Security Council is obliged, according to its decision, to lift the sanctions imposed on the Libyan Arab Jamahiriya upon the receipt of the aforementioned report.

1. The first part of the Secretary-General's report (S/1999/726) demonstrates beyond any doubt that the international community, represented by its regional and international organizations (Organization of African Unity, the League of Arab States, the Organization of the Islamic Conference, the Movement of Non-Aligned Countries), is convinced that the Libyan Arab Jamahiriya has complied with all the obligations stipulated in the Security Council resolutions, and that the sanctions against the Libyan Arab Jamahiriya should be lifted immediately.

Since the Security Council, which acts on behalf of the States Members of the United Nations, cannot continue to ignore the will of the international community, it should therefore immediately proceed to lift the measures it adopted against Libya in its resolutions 784 (1992) and 883 (1992).

2. The first part of the report also clearly demonstrates that the international community is now convinced that the dispute has reassumed its legal nature, since the case is before a Scottish court, as agreed by the concerned parties and the entire international community, and that the politicization of this dispute, in whatever form or by any party, is unacceptable. The matter is sub judice, and all parties should accept and abide by the opinions of the Scottish court sitting in the Netherlands with respect to all matters pertaining to procedure, evidence, witnesses or compensation.

3. Paragraph 22 of the Secretary-General's report indicates that the demands of the French authorities with regard to the bombing of UTA flight 772, referred to in document A/46/825-S/23306, have been met, and it may be concluded that the Libyan Arab Jamahiriya has thus fully complied with the relevant requirement of Security Council resolutions 731 (1992) and 748 (1992), and that this file is closed.

4. Cooperation with the court

- In his report, the Secretary-General notes, in a correct and logical manner, that since the trial has been postponed, the Libyan Arab Jamahiriya has only to provide assurances of its commitment to comply with the requirements contained in document A/46/827-S/23308 regarding access to witnesses, relevant documents and other material evidence.

- In his report, the Secretary-General recalls paragraph 4 of Security Council resolution 1192 (1998), which provides that all States shall cooperate to this end.

- In paragraph 4 of its resolution 1192 (1998), the Security Council requires the cooperation of all States, not only Libya.

- In order to confirm that this is a legal matter, a team of Libyan lawyers discussed this question with the appropriate legal authorities of the countries concerned through the United Nations Legal Counsel, Mr. Hans Corell. Official letters in this regard were exchanged, as the Secretary-General indicates in his report.

- Libyan leaders at the highest level have stated clearly and seriously that they were ready to cooperate with the Scottish court sitting in the Netherlands. The latest declarations to that effect were made by the Secretary of the General People's Committee for Foreign Liaison and International Cooperation in a letter dated 19 March 1999 addressed to the Secretary-General (S/1999/311).

- Consequently, there is no justification whatsoever for anyone to oppose the Security Council's immediate lifting of the sanctions.

5. Compensation

- In paragraph 27 of his report, the Secretary-General discusses the question of compensation in an unambiguous manner. He states: "... it would be contrary to the purpose of resolution 1192 (1998) to anticipate that the Libyan Arab Jamahiriya should be expected to accept responsibility and pay compensation now to the families of the Pan Am 103 victims before the trial is completed".

- The payment of compensation is the responsibility of those who are recognized as responsible for committing an illegal act after all legal remedies have been exhausted. The perpetrator of a crime must be judged guilty by a competent criminal court following which a competent civil court establishes the amount of compensation to be paid.

- Whoever is demanding compensation now is not only acting prematurely but is discrediting a firmly established basic rule of law for achieving justice: "the accused is innocent until proven guilty". Since the trial has not yet started, no ruling against the two

defendants has been issued. What, then, can be the basis or pretext for demanding that the Libyan Arab Jamahiriya pay compensation?

- To demand payment of compensation now would make it practically impossible for the Scottish court sitting in the Netherlands to find the two defendants innocent. We are, in fact, confident of their innocence. Furthermore, if the two defendants were found innocent, the Libyan Arab Jamahiriya would be deprived of its right to compensation for damages and losses, human and material, and for the suffering endured by the Libyan people for seven years for the mere fact that two Libyan nationals were suspects in a case.

- That is why, as the Secretary-General states in his report, it would be premature and contrary to the spirit of Security Council resolution 1192 (1998) to demand that Libya pay compensation.

- However, as the Secretary-General states in paragraphs 27 and 28 of his report: "the Libyan Arab Jamahiriya has publicly stated on several occasions that it will comply with the conclusions of the Scottish court, whatever they may be, and if required will pay the necessary compensation". These reassurances were reaffirmed in the letter dated 19 March 1999 from the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya addressed to the Secretary-General. The letter states "the Libyan Arab Jamahiriya reaffirms what it stated previously with regard to compensation in the event that the suspects are found guilty and a final verdict is rendered to that effect".

6. Renunciation of terrorism

- The Secretary-General devotes nearly three pages of his report to this question, highlighting the positions and the measures adopted by the Libyan Arab Jamahiriya and the actual cooperation that it extended for the elimination of international terrorism, namely:

- Definitive condemnation and renunciation of all forms of international terrorism of whatever origin;

- Severance of relations with all groups and organizations suspected of involvement in international terrorism of any kind;

- Reaffirmation that there are no training camps or terrorist organizations or groups in its territory;

- Reaffirmation that it will not permit its territory, nationals or institutions to be used for the commission, directly or indirectly, of acts of terrorism;

- Reaffirmation of its readiness to impose the severest penalties on anyone proved to have been involved in such acts.

- Commitment to respect the national options of all States and to base its relations on mutual respect and non-intervention in internal affairs.

- The confirmation of Libya's positive cooperation with the Government of the United Kingdom in connection with the Irish Republican Army (S/1999/726, para. 35) and the recognition and satisfaction of the French Government with Libya's cooperation in the case of UTA flight 772 (S/1999/726, para. 36), the recognition by the United States State Department in its 1998 report on patterns of global terrorism that "Libya has not been implicated in any international terrorist acts for several years", and this was also confirmed to Mr. Milton Viorst, from Foreign Affairs, by State Department officials in a briefing at the State Department prior to Mr. Viorst's visit to the Libyan Arab Jamahiriya early in 1999: "in the past few years, the officials said, Libya had committed no terrorist acts" (Foreign Affairs, vol. 78, March-April 1999, p. 61).

- In addition, the flexibility and reasonableness demonstrated by the Libyan Arab Jamahiriya in order to restore the legal nature of the dispute are sufficient and concrete evidence that make it possible to refute all allegations of the Libyan Arab Jamahiriya's support for terrorism.

- The fact that a large part of the Secretary-General's report is devoted to the positive positions, affirmations and the concrete measures taken by the Libyan Arab Jamahiriya, in addition to its cooperation with the United Kingdom and France, is important in that it not only implies but confirms that the Libyan Arab Jamahiriya has complied in a concrete manner with the requirements of paragraph 2 of Security Council resolution 748 (1992). This file must therefore be considered closed.

- The Secretary-General's report, submitted in accordance with the mandate he received from the Security Council, is conclusive and comprehensive, and leads to a logical conclusion: that the Libyan Arab Jamahiriya has complied with all its obligations. And that all parties have made commitments to cooperate with the Scottish court, which they should fulfil. And they should abide by whatever decisions the Scottish court renders. In this regard, it should be recalled that, of all the other parties concerned, only the Libyan Arab Jamahiriya has undertaken to implement the decisions of the Scottish court.

- Whereas the imposition of sanctions on one party (the Libyan Arab Jamahiriya) because of a legal dispute has not been accepted or considered logical or legal, the continuation of such sanctions has become contradictory to international law, the Charter of the United Nations, and the resolutions of the Security Council itself, since the Libyan Arab Jamahiriya has complied fully with the requirements of these resolutions.

- The Security Council undertook to lift the measures imposed on the Libyan Arab Jamahiriya as soon as it received the report of the Secretary-General, within 90 days of the date of the suspension of these measures. It must be recalled that those who proposed the 90-day period are themselves the authors of Council resolution 883 (1993). They should be the first to respect what they proposed.

- If the Security Council does not lift the sanctions when all the reasons have been provided and the requirements have been met and after all the arguments against lifting the sanctions have been rebutted in the Secretary-General's report, this would only cause further damage to the credibility of the Security Council. On the contrary, the lifting of the sanctions, now that all the conditions have been met, would strengthen the Council's credibility. That would also encourage other States that have matters seized by the Council to cooperate in a positive spirit in order to reach solutions.

The continuation of sanctions would only undermine the environment of trust and goodwill that led to the solution accepted by all parties. Nobody would wish to go back to the environment of doubts and mistrust that prevailed before. Those who say that they have no hidden agenda can only demonstrate that through deeds and concrete positions that confirm such affirmations.

In the light of the foregoing, the Libyan Arab Jamahiriya calls for the following:

1. Libya, being the only party that has undertaken to comply with its commitments to respect Scottish law, cooperate with the Scottish court sitting in the Netherlands and implement whatever decision is rendered by the court, demands that the other parties make the same commitments.

2. The insistence on obstructing the lifting of the sanctions by ignoring the provision of paragraph 16 of Security Council resolution 883 (1993) and the contents of the Secretary-General's report can only take us many steps back.

3. Matters of a bilateral nature that a certain State has with the Libyan Arab Jamahiriya can be dealt with at the bilateral level, between the concerned State and the Libyan Arab Jamahiriya, since there is no reason to link it to the Security Council resolutions or the sanctions imposed by the Council.

4. Libya has repeatedly expressed its willingness to engage in a dialogue and discussions with any State on any bilateral matters. The Security Council should not allow itself to be used by anyone for the purpose of achieving certain political goals. The Council is now facing a real historical test, which is being watched by the entire international community.

5. The Security Council undertook to implement a part of what it had decided to do in paragraph 16 of its resolution 883 (1993) when it suspended, on 5 April 1999, the measures imposed on the Libyan Arab Jamahiriya by Council resolutions 748 (1992) and 883 (1993). It should now complete the

implementation of what it had decided in that paragraph, namely, to proceed to the immediate and complete lifting of these measures, now that it has received the Secretary-General's report.

I should be grateful if Your Excellency would have this letter distributed as an official document to the Security Council.

(Signed) Abuzed Omar DORDA
Ambassador
Permanent Representative